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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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MAR 29 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re

Implementation of Section 4(g)
of the Cable Television Consumer
Protection Act of 1992

MM Docket No. 93-8

To: The Commission

COMMENTS OF THE NATIONAL ASSOCIATION OF
BLACK OWNED BROADCASTERS, INC.

It has been recognized by both the Commission and the Congress that for most television stations full cable carriage rights are a necessity for financial success. For UHF stations, which the African American owned stations carrying home shopping programming are, cable carriage is even more important than for VHF stations. Therefore, the issues in this proceeding will in a large manner effect the extent to which existing African American owned television stations will be successful in the current business

II. THE COMMISSION SHOULD NOT TREAT SIMILARLY SITUATED COMMERCIAL TELEVISION STATIONS IN A DISPARATE MANNER BASED UPON PROGRAMMING CONTENT

5. The principal question raised by the Commission in the NPRM is whether stations carrying a significant amount of home shopping programming serve the public interest. The Commission then goes on to ask some other questions which become of only limited importance if the Commission answers the first question in the affirmative. NABOB submits that the Commission can and should answer the basic public interest question in the affirmative. In deciding whether stations carrying a significant amount of home shopping programming serve the public interest the Commission must begin by recognizing that it must be extremely cautious in making regulatory decisions based upon program content. The Commission has clear jurisdiction to restrict the broadcast of indecent programming and to completely prohibit obscene programming. Beyond those general areas, the Commission's ability to deny rights to some television station licensees, while according those rights to other similarly situated television station licensees faces very serious First Amendment questions.

6. In deciding whether stations carrying home shopping programming should be accorded the same cable carriage rights as other commercial television stations, the Commission should recognize that the only legitimate question from a content perspective is whether the programming falls into the categories of prohibited programming which the Commission has the authority to preclude or limit. Home shopping programming does not fall

within either category of specifically prohibited programming. Once that determination has been made, the Commission should end its programming content inquiry. Any inquiry beyond this basic content inquiry requires the Commission to engage in value judgments which the Commission should avoid. Thus, inquiries about audience size would be inappropriate. As the Commission has recognized in other proceedings, audience size measurements fail to measure the importance placed on the programming by that audience. If a station is able to attract an audience sufficient in size to sustain the station financially, such that the station is able to meet all of its licensee obligations, the Commission should make no further content inquiry. In other words, if the

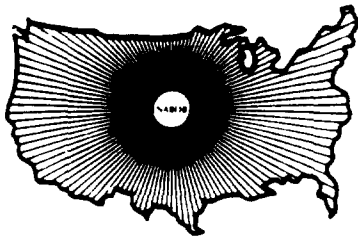
station is able to attract an audience sufficient in size to sustain the station financially, such that the station is able to meet all of its licensee obligations, the Commission should make no further content inquiry. In other words, if the

a meaningful presence in the television industry. There may well be detractors who would prefer to see these pioneers begin with different programming. However, the facts are that for African American and other minority entrepreneurs the opportunities to pursue station ownership are very limited. The African American owned television stations airing home shopping programming represent an important step in the development of meaningful involvement by the African American community in controlling a very small number of facilities from which that community can begin to reap the benefits which the First Amendment was intended to provide to all segments of society. The Commission should not take any action in this proceeding which would turn back this small bit of progress.

Respectfully submitted,

**THE NATIONAL ASSOCIATION OF BLACK
OWNED BROADCASTERS. INC.**

DOCUMENT 1



NATIONAL ASSOCIATION OF BLACK OWNED BROADCASTERS

JAMES L. WINSTON, Executive Director and General Counsel • 1730 M Street, N.W., Suite 412
Washington, D.C. 20036 • (202) 463-8970

September 15, 1992

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Television Representative

WASHINGTON OFFICE

JAMES L. WINSTON

Executive Director

and General Counsel

The Honorable Ernest Hollings
125 Senate Russell Office Building
Washington, D.C. 20510

The Honorable Daniel Inouye
722 Senate House Office Building
Washington, D.C. 20510

The Honorable John Dingell
2221 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Edward Markey
2133 Rayburn House Office Building
Washington, D.C. 20515

Re: Cable Television Act of 1992

Gentlemen:

NABOB thanks you for the hard work and dedication you have shown in developing the Cable Television Act of 1992, which will be going to the floor in both chambers in the immediate future.

We have read that the President is threatening to veto the legislation. Therefore, we feel that it is important that we go on record in support of your efforts.

As you are aware, NABOB was particularly concerned with the must-carry provisions of the bill. Without must-carry rights African American owners of television stations would find it virtually impossible to compete against larger television stations and cable systems. We are pleased to see that the bill will provide must-carry rights for most African American owned television

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stations immediately, and should lead to the remaining African American owned television stations being carried in the near future, after the FCC completes its investigation of commercial matter carried by television stations.

This portion of the legislation is important, and we commend the conferees for including it in the bill.

We are aware, however, that the House version of the bill contained provisions concerning EEO enforcement which were more extensive than those which were adopted. We fully understand and support the reasons which led to adoption of the House EEO amendment. As African American broadcasters, we are acutely aware of the gross underrepresentation of minorities in the management ranks of the broadcast industry. Most minorities in the industry must look only to minority owned stations for an opportunity to enter the ranks of management. We, on the other hand, can rarely look to the ranks of the majority station owners to find minorities who have gained management experience which they can bring to our stations. The problem is not a lack of qualifications on the part of the minority employees, but a lack of commitment on the part of the majority station owners to promote them to management level positions.

Thus, we appreciate and agree with the ideals and objectives of the EEO amendment which was in the House bill. However, we do not agree that the bill should be rejected because all of those proposals were not carried over into the final bill.

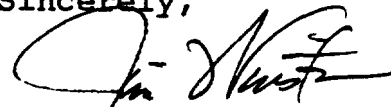
The conference bill includes a definition of "minority-owned station" as a station owned by a person who is a member of a minority group as defined in the EEOC regulations.

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Therefore, NABOB supports the bill's overall accomplishments in the areas of must-carry and EEO. We hope that the Senate and House will pass the bill with a large enough majority to override the threatened veto.

We thank you again for your efforts.

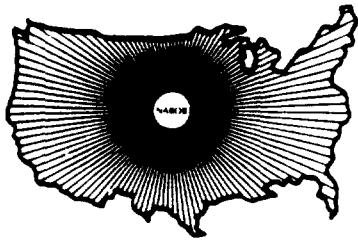
Sincerely,

A handwritten signature in black ink, appearing to read "Jim Winston", written over the printed name.

James L. Winston

JLW/kn

DOCUMENT 2



NATIONAL ASSOCIATION OF BLACK OWNED BROADCASTERS

JAMES L. WINSTON, Executive Director and General Counsel • 1730 M Street, N.W., Suite 412
Washington, D.C. 20036 • (202) 463-8970

September 15, 1992

BOARD OF DIRECTORS
PIERRE M. SUTTON
Acting Chairman of the Board
BENNIE TURNER

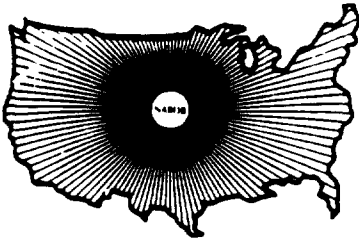
The Honorable Bill Richardson
September 15, 1992
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minorities who have gained management experience which they can bring to our stations. The problem is not a lack of qualifications on the part of the minority employees, but a lack of commitment on the part of the majority station owners to promote them to management level positions.

Therefore, we fully agree that the majority station owners must be held to meaningful EEO compliance requirements. While your amendment would certainly impose stringent EEO requirements, we question whether the Cable Television Act should be rejected because it does not include your amendment in its entirety. In particular, we note that your amendment caused the conferees to include an EEO provision, when the Senate bill had provided no EEO provision at all. Moreover, the conference bill codifies the FCC's broadcast EEO rules and imposes the EEO requirements you proposed for cable systems. The conference bill also imposes new requirements on television broadcasters, including the requirement that they be subject to a mid-term review of their EEO compliance.

It is clear that both cable operators and television broadcasters will be subject to greater EEO regulatory requirements as a result of the conference bill, which your amendment precipitated. Given these accomplishments and the reimposition of must-carry rights, we would not wish to see the bill defeated because it does not impose more stringent EEO requirements on broadcast television stations at this time.

DOCUMENT 3



NATIONAL ASSOCIATION OF BLACK OWNED BROADCASTERS

JAMES L. WINSTON, Executive Director and General Counsel • 1730 M Street, N.W., Suite 412
Washington, D.C. 20036 • (202) 463-8970

July 22, 1992

BOARD OF DIRECTORS

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MICHAEL V. ROBERTS,

Television Representative

WASHINGTON OFFICE

JAMES L. WINSTON

Executive Director

and General Counsel

The Honorable John Dingell
2221 Rayburn House Office Building
Washington, D.C. 20515-2216

Dear Congressman Dingell:

The National Association of Black Owned Broadcasters has always appreciated your strong commitment to legislation which promotes the ownership and control of broadcast stations by African Americans and other minorities. Therefore, we are very concerned about the Energy and Commerce Committee's recent passage of H.R. 4850, the Cable Television Reform bill, which will have a devastating impact on African American owners of television stations.

The Cable Television Reform bill provides must-carry protection for local television stations. We applaud this aspect of the bill.

However, the bill excludes from its must-carry coverage stations which carry a significant amount of commercial matter.

The decision of the Committee to exclude this group of stations will have a very negative effect on African American owned stations. One-third of African American owned television stations carry a commercial shopping programming format.

Before excluding these owners, the Committee should consider that there has been virtually no growth in television station ownership by African Americans in

Congressman John D. Dingell
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The owners of these stations are committed broadcasters. Many of the African American station owners who have commercial shopping format stations started off trying to finance and construct traditional independent entertainment format stations. Unfortunately, due to continuing discrimination in the lending industry, these entrepreneurs could not find financing for such traditional station formats and were forced to adopt less traditional formats.

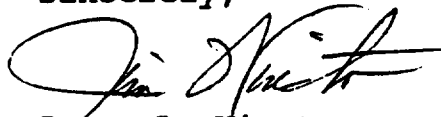
In spite of this, these station owners are continuing to use their limited resources to provide programming responsive to their communities.

We request that you reconsider the legislation as adopted by the Committee. African American and other minority broadcasters need to "get their foot in the door" in the television industry. In the short term this may require them to operate stations with less than the most desirable formats. However, preventing African American station owners from being carried on cable because of their formats is like "throwing the baby out with the bath water." We need to start somewhere.

We ask that the Committee amend the legislation to provide must-carry protection to all African American owned and minority owned stations, regardless of format.

Thank you for your consideration.

Sincerely,



James L. Winston

JLW/kn

cc: Congressman Edward J. Markey
Congressman Edolphus Towns
Congressman Bill Richardson
Congresswoman Cardiss Collins
Congressman Charles B. Rangel